

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

ARTHUR HERRING, III

Plaintiff

V.

**VINCENT MARTELLO, MATTHEW
KRONER, CLIFFORD BARCLIFF,
MONTGOMERY COUNTY COMMUNITY
COLLEGE, WHITPAIN TOWNSHIP,
JOSEPH STEMPLE, WILLIAM BUNTING
and GEORGETTE JACOB.**

Defendants

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**Civil Action
02-CV-02811**

**JOINT STIPULATION FOR THE EXTENSION OF TIME IN WHICH TO FILE TRIAL
MEMORANDUM PRUSUANT TO THE COURT’S APRIL 1, 2003 ORDER**

Defendants Vincent Martello (hereinafter “Martello”), Matthew Kroner, (hereinafter, “Kroner”), Clifford Barcliff, (hereinafter “Barcliff”), Montgomery County Community College (hereinafter “Community College”), and Plaintiff Arthur Herring (hereinafter “Herring”) by and through undersigned counsel, hereby Moves that this Honorable Court permit an extension of time in which to file trial memorandum pursuant to the April 1, 2003 Order, and who aver the following:

1. The incident giving rise to the above action occurred on June 1, 2000 on the campus of the Montgomery County Community College and thereafter at the Whippain Township Police Department.
2. On April 17, 2002, Herring filed the instant action in the Federal District Court for the Eastern District of Pennsylvania. On July 15, 2002, prior

counsel for the Community College, Barcliff, Martello and Herring filed a Motion to Dismiss on behalf of the Community College only.

3. On October 22, 2002, the Honorable Stewart Dalzell entered an Order ruling on the Motion to Dismiss. This Order dismissed portions of the Complaint referencing the Second and Fifth Amendments to the Constitution, Count VI which alleged violations of 43 U.S.C. §1985 and §1986, and punitive damages for the Township, Community College and all individual defendants in their official capacities. Judge Dalzell also entered a scheduling order in the case.
4. Prior counsel for the Community College Defendants entered his appearance only for the Community College and Clifford Barcliff. As counsel failed to enter his appearance for the two former employees of the Community College, Kroner and Martello, Herring filed a Request for Entry of Default against both Kroner and Martello.
5. On or about November 14, 2002, the clerk entered default against Martello and Kroner.
6. On December 19, 2002, by random reassignment by the Court, this case was transferred from the Honorable Stewart Dalzell to the Honorable James Knoll Gardner.
7. The Order of April 1, 2003, sets forth a deadline for filing trial memorandum for the damages trial against Martello and Kroner as July 14, 2003.

8. New counsel for the Community College Defendants and counsel for Plaintiff Herring have conferred concerning the need for an extension of the deadline to file trial memorandums for the August 18, 2003 trial regarding damages only as against Martello and Kroner. Both counsel jointly request an extension and aver the following¹.
- a. Both counsel for the Plaintiff and counsel for the Community College Defendants have been working diligently to resolve the matter. Towards that end, on or about July 11, 2003, the Court entered an Order, directing the parties to a conference with Magistrate Rapaport.
 - b. New counsel for the Community College defendants will be filing Petitions to Open the Default judgments for Martello and Kroner, on the grounds of lack of proper service by July 15, 2003, pursuant to this Honorable Court's March 20, 2003 Order.
 - c. Counsel for the Plaintiff has filed a Motion to Enforce Settlement Agreement.
 - d. Plaintiff's Counsel in his Response to Defendants' Joint Motion for Extension of the Scheduling Order, respectfully requested in his Wherefore clause that all time for filing of documents relating to the default judgment be enlarged.
 - e. Any of the above reasons – Settlement, Enforcement of the Settlement Agreement or Opening of the Default – would necessarily moot the need for trial memorandum for the damages hearing on August 18, 2003.

¹ It should be noted that the Plaintiff and Defendants Stemple, Bunting, Jacob and Whitpain Township have, effectively, settled their dispute by the offer and acceptance under Rule 68. The only issues that remain between them are attorneys fees.

f. For the reasons set forth above, and further for reasons of judicial economy, counsel for both parties respectfully requests an extension of the deadlines set forth in this Honorable Court's April 1, 2003 Order.

WHEREFORE, for all the above reasons that both new counsel for the Community College, Barcliff, Martello and Kroner as well as counsel for Plaintiff Herring respectfully request that this Honorable Court extend the deadline to file trial memorandums for the August 18, 2003 trial regarding damages only as against Martello and Kroner.

Respectfully submitted,
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Respectfully Submitted,



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PROPOSED SCHEDULING ORDER

AND NOW, this day of July, 2003, after consideration of the Joint Motion for Extension of time in which to file Non Jury Trial memorandum pursuant to the Court's April 1, 2003 Order filed by both counsel for Plaintiff Herring and counsel for the community College Defendants, it is hereby Ordered and Decreed that this Court's Order of April 1, 2003 is amended as follows:

1. Trial memoranda shall be submitted to the undersigned, and served on all counsel of record by August 15, 2003.
2. A jury trial shall commence before the Honorable James Knoll Gardner on September 11, 2003, in Courtroom B, Edward N. Cahn United States Courthouse, 504 West Hamilton Street, Allentown, PA, or as soon thereafter as the schedule of the court permits, following jury selection at the United States Courthouse, 601 Market Street, Philadelphia, Pennsylvania.

3. All other deadlines/requirements as set forth in the April 1, 2003 Order shall remain unchanged.

BY THE COURT:

The Honorable James Knoll Gardner